

106TH CONGRESS
1ST SESSION

S. 202

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. MOYNIHAN (for himself, Mr. KENNEDY, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Early Access Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-
TO-65 YEARS OF AGE**

Sec. 101. Access to medicare benefits for individuals 62-to-65 years of age.

**“PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS
AGE 62-TO-65 YEARS OF AGE**

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

“Sec. 1859D. Medicare Early Access Trust Fund.

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.”.

**TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED
WORKERS 55-TO-62 YEARS OF AGE**

Sec. 201. Access to medicare benefits for displaced workers 55-to-62 years of age.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

**1 TITLE I—ACCESS TO MEDICARE
2 BENEFITS FOR INDIVIDUALS
3 62-TO-65 YEARS OF AGE**

**4 SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVID-
5 UALS 62-TO-65 YEARS OF AGE.**

6 (a) IN GENERAL.—Title XVIII of the Social Security
7 Act is amended—

1 (1) by redesignating section 1859 and part D
 2 as section 1858 and part E, respectively; and

3 (2) by inserting after such section the following
 4 new part:

5 “PART D—PURCHASE OF MEDICARE BENEFITS BY
 6 CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE
 7 **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

8 “(a) ENTITLEMENT TO MEDICARE BENEFITS FOR
 9 ENROLLED INDIVIDUALS.—

10 “(1) IN GENERAL.—An individual enrolled
 11 under this part is entitled to the same benefits
 12 under this title as an individual entitled to benefits
 13 under part A and enrolled under part B.

14 “(2) DEFINITIONS.—For purposes of this part:

15 “(A) FEDERAL OR STATE COBRA CONTINU-
 16 ATION PROVISION.—The term ‘Federal or State
 17 COBRA continuation provision’ has the mean-
 18 ing given the term ‘COBRA continuation provi-
 19 sion’ in section 2791(d)(4) of the Public Health
 20 Service Act and includes a comparable State
 21 program, as determined by the Secretary.

22 “(B) FEDERAL HEALTH INSURANCE PRO-
 23 GRAM DEFINED.—The term ‘Federal health in-
 24 surance program’ means any of the following:

1 “(i) MEDICARE.—Part A or part B of
 2 this title (other than by reason of this
 3 part).

4 “(ii) MEDICAID.—A State plan under
 5 title XIX.

6 “(iii) FEHBP.—The Federal employ-
 7 ees health benefit program under chapter
 8 89 of title 5, United States Code.

9 “(iv) TRICARE.—The TRICARE
 10 program (as defined in section 1072(7) of
 11 title 10, United States Code).

12 “(v) ACTIVE DUTY MILITARY.—Health
 13 benefits under title 10, United States
 14 Code, to an individual as a member of the
 15 uniformed services of the United States.

16 “(C) GROUP HEALTH PLAN.—The term
 17 ‘group health plan’ has the meaning given such
 18 term in section 2791(a)(1) of the Public Health
 19 Service Act.

20 “(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65
 21 YEARS OF AGE.—

22 “(1) IN GENERAL.—Subject to paragraph (2),
 23 an individual who meets the following requirements
 24 with respect to a month is eligible to enroll under
 25 this part with respect to such month:

1 “(A) AGE.—As of the last day of the
2 month, the individual has attained 62 years of
3 age, but has not attained 65 years of age.

4 “(B) MEDICARE ELIGIBILITY (BUT FOR
5 AGE).—The individual would be eligible for ben-
6 efits under part A or part B for the month if
7 the individual were 65 years of age.

8 “(C) NOT ELIGIBLE FOR COVERAGE
9 UNDER GROUP HEALTH PLANS OR FEDERAL
10 HEALTH INSURANCE PROGRAMS.—The individ-
11 ual is not eligible for benefits or coverage under
12 a Federal health insurance program (as defined
13 in subsection (a)(2)(B)) or under a group
14 health plan (other than such eligibility merely
15 through a Federal or State COBRA continu-
16 ation provision) as of the last day of the month
17 involved.

18 “(2) LIMITATION ON ELIGIBILITY IF TERMI-
19 NATED ENROLLMENT.—If an individual described in
20 paragraph (1) enrolls under this part and coverage
21 of the individual is terminated under section
22 1859A(d) (other than because of age), the individual
23 is not again eligible to enroll under this subsection
24 unless the following requirements are met:

1 “(A) NEW COVERAGE UNDER GROUP
 2 HEALTH PLAN OR FEDERAL HEALTH INSUR-
 3 ANCE PROGRAM.—After the date of termination
 4 of coverage under such section, the individual
 5 obtains coverage under a group health plan or
 6 under a Federal health insurance program.

7 “(B) SUBSEQUENT LOSS OF NEW COV-
 8 ERAGE.—The individual subsequently loses eli-
 9 gibility for the coverage described in subpara-
 10 graph (A) and exhausts any eligibility the indi-
 11 vidual may subsequently have for coverage
 12 under a Federal or State COBRA continuation
 13 provision.

14 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
 15 DOES NOT AFFECT COVERAGE.—In the case of an
 16 individual who is eligible for and enrolls under this
 17 part under this subsection, the individual’s continued
 18 entitlement to benefits under this part shall not be
 19 affected by the individual’s subsequent eligibility for
 20 benefits or coverage described in paragraph (1)(C),
 21 or entitlement to such benefits or coverage.

22 **“SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.**

23 “(a) IN GENERAL.—An individual may enroll in the
 24 program established under this part only in such manner
 25 and form as may be prescribed by regulations, and only

1 during an enrollment period prescribed by the Secretary
 2 consistent with the provisions of this section. Such regula-
 3 tions shall provide a process under which—

4 “(1) individuals eligible to enroll as of a month
 5 are permitted to pre-enroll during a prior month
 6 within an enrollment period described in subsection
 7 (b); and

8 “(2) each individual seeking to enroll under sec-
 9 tion 1859(b) is notified, before enrolling, of the de-
 10 ferred monthly premium amount the individual will
 11 be liable for under section 1859C(b) upon attaining
 12 65 years of age as determined under section
 13 1859B(c)(3).

14 “(b) ENROLLMENT PERIODS.—

15 “(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In
 16 the case of individuals eligible to enroll under this
 17 part under section 1859(b)—

18 “(A) INITIAL ENROLLMENT PERIOD.—If
 19 the individual is eligible to enroll under such
 20 section for July 2000, the enrollment period
 21 shall begin on May 1, 2000, and shall end on
 22 August 31, 2000. Any such enrollment before
 23 July 1, 2000, is conditioned upon compliance
 24 with the conditions of eligibility for July 2000.

1 “(B) SUBSEQUENT PERIODS.—If the indi-
 2 vidual is eligible to enroll under such section for
 3 a month after July 2000, the enrollment period
 4 shall begin on the first day of the second month
 5 before the month in which the individual first is
 6 eligible to so enroll and shall end 4 months
 7 later. Any such enrollment before the first day
 8 of the third month of such enrollment period is
 9 conditioned upon compliance with the condi-
 10 tions of eligibility for such third month.

11 “(2) AUTHORITY TO CORRECT FOR GOVERN-
 12 MENT ERRORS.—The provisions of section 1837(h)
 13 apply with respect to enrollment under this part in
 14 the same manner as they apply to enrollment under
 15 part B.

16 “(c) DATE COVERAGE BEGINS.—

17 “(1) IN GENERAL.—The period during which
 18 an individual is entitled to benefits under this part
 19 shall begin as follows, but in no case earlier than
 20 July 1, 2000:

21 “(A) In the case of an individual who en-
 22 rolls (including pre-enrolls) before the month in
 23 which the individual satisfies eligibility for en-
 24 rollment under section 1859, the first day of
 25 such month of eligibility.

1 “(B) In the case of an individual who en-
 2 rolls during or after the month in which the in-
 3 dividual first satisfies eligibility for enrollment
 4 under such section, the first day of the follow-
 5 ing month.

6 “(2) AUTHORITY TO PROVIDE FOR PARTIAL
 7 MONTHS OF COVERAGE.—Under regulations, the
 8 Secretary may, in the Secretary’s discretion, provide
 9 for coverage periods that include portions of a
 10 month in order to avoid lapses of coverage.

11 “(3) LIMITATION ON PAYMENTS.—No payments
 12 may be made under this title with respect to the ex-
 13 penses of an individual enrolled under this part un-
 14 less such expenses were incurred by such individual
 15 during a period which, with respect to the individual,
 16 is a coverage period under this section.

17 “(d) TERMINATION OF COVERAGE.—

18 “(1) IN GENERAL.—An individual’s coverage
 19 period under this part shall continue until the indi-
 20 vidual’s enrollment has been terminated at the earli-
 21 est of the following:

22 “(A) GENERAL PROVISIONS.—

23 “(i) NOTICE.—The individual files no-
 24 tice (in a form and manner prescribed by
 25 the Secretary) that the individual no

1 longer wishes to participate in the insur-
2 ance program under this part.

3 “(ii) NONPAYMENT OF PREMIUMS.—
4 The individual fails to make payment of
5 premiums required for enrollment under
6 this part.

7 “(iii) MEDICARE ELIGIBILITY.—The
8 individual becomes entitled to benefits
9 under part A or enrolled under part B
10 (other than by reason of this part).

11 “(B) TERMINATION BASED ON AGE.—The
12 individual attains 65 years of age.

13 “(2) EFFECTIVE DATE OF TERMINATION.—

14 “(A) NOTICE.—The termination of a cov-
15 erage period under paragraph (1)(A)(i) shall
16 take effect at the close of the month following
17 for which the notice is filed.

18 “(B) NONPAYMENT OF PREMIUM.—The
19 termination of a coverage period under para-
20 graph (1)(A)(ii) shall take effect on a date de-
21 termined under regulations, which may be de-
22 termined so as to provide a grace period in
23 which overdue premiums may be paid and cov-
24 erage continued. The grace period determined
25 under the preceding sentence shall not exceed

60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

“(C) AGE OR MEDICARE ELIGIBILITY.—

The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

“SEC. 1859B. PREMIUMS.

“(a) AMOUNT OF MONTHLY PREMIUMS.—

“(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1999), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

“(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base

monthly premium for individuals 62 years of age or older is equal to $\frac{1}{12}$ of the base annual

1 premium rate computed under subsection (b)
 2 for each premium area.

3 “(B) DEFERRED MONTHLY PREMIUMS FOR
 4 INDIVIDUALS 62 YEARS OF AGE OR OLDER.—
 5 The Secretary shall, during September of each
 6 year (beginning with 1999), determine under
 7 subsection (c) the amount of deferred monthly
 8 premiums that shall apply with respect to indi-
 9 viduals who first obtain coverage under this
 10 part under section 1859(b) in the succeeding
 11 year.

12 “(2) ESTABLISHMENT OF PREMIUM AREAS.—
 13 For purposes of this part, the term ‘premium area’
 14 means such an area as the Secretary shall specify to
 15 carry out this part. The Secretary from time to time
 16 may change the boundaries of such premium areas.
 17 The Secretary shall seek to minimize the number of
 18 such areas specified under this paragraph.

19 “(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62
 20 YEARS OF AGE OR OLDER.—

21 “(1) NATIONAL, PER CAPITA AVERAGE.—The
 22 Secretary shall estimate the average, annual per
 23 capita amount that would be payable under this title
 24 with respect to individuals residing in the United
 25 States who meet the requirement of section

1 1859(b)(1)(A) as if all such individuals were eligible
 2 for (and enrolled) under this title during the entire
 3 year (and assuming that section 1862(b)(2)(A)(i)
 4 did not apply).

5 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
 6 retary shall reduce, as determined appropriate, the
 7 amount determined under paragraph (1) for a pre-
 8 mium area (specified under subsection (a)(3)) that
 9 has costs below the national average, in order to as-
 10 sure participation in all areas throughout the United
 11 States.

12 “(3) BASE ANNUAL PREMIUM.—The base an-
 13 nual premium under this subsection for months in a
 14 year for individuals 62 years of age or older residing
 15 in a premium area is equal to the average, annual
 16 per capita amount estimated under paragraph (1)
 17 for the year, adjusted for such area under paragraph
 18 (2).

19 “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS
 20 62 YEARS OF AGE OR OLDER.—The deferred premium
 21 rate for individuals with a group of individuals who obtain
 22 coverage under section 1859(b) in a year shall be com-
 23 puted by the Secretary as follows:

24 “(1) ESTIMATION OF NATIONAL, PER CAPITA
 25 ANNUAL AVERAGE EXPENDITURES FOR ENROLL-

1 MENT GROUP.—The Secretary shall estimate the av-
 2 erage, per capita annual amount that will be paid
 3 under this part for individuals in such group during
 4 the period of enrollment under section 1859(b). In
 5 making such estimate for coverage beginning in a
 6 year before 2004, the Secretary may base such esti-
 7 mate on the average, per capita amount that would
 8 be payable if the program had been in operation over
 9 a previous period of at least 4 years.

10 “(2) DIFFERENCE BETWEEN ESTIMATED EX-
 11 PENDITURES AND ESTIMATED PREMIUMS.—Based
 12 on the characteristics of individuals in such group,
 13 the Secretary shall estimate during the period of
 14 coverage of the group under this part under section
 15 1859(b) the amount by which—

16 “(A) the amount estimated under para-
 17 graph (1); exceeds

18 “(B) the average, annual per capita
 19 amount of premiums that will be payable for
 20 months during the year under section 1859C(a)
 21 for individuals in such group (including pre-
 22 miums that would be payable if there were no
 23 terminations in enrollment under clause (i) or
 24 (ii) of section 1859A(d)(1)(A)).

1 “(3) ACTUARIAL COMPUTATION OF DEFERRED
2 MONTHLY PREMIUM RATES.—The Secretary shall
3 determine deferred monthly premium rates for indi-
4 viduals in such group in a manner so that—

5 “(A) the estimated actuarial value of such
6 premiums payable under section 1859C(b), is
7 equal to

8 “(B) the estimated actuarial present value
9 of the differences described in paragraph (2).

10 Such rate shall be computed for each individual in
11 the group in a manner so that the rate is based on
12 the number of months between the first month of
13 coverage based on enrollment under section 1859(b)
14 and the month in which the individual attains 65
15 years of age.

16 “(4) DETERMINANTS OF ACTUARIAL PRESENT
17 VALUES.—The actuarial present values described in
18 paragraph (3) shall reflect—

19 “(A) the estimated probabilities of survival
20 at ages 62 through 84 for individuals enrolled
21 during the year; and

22 “(B) the estimated effective average inter-
23 est rates that would be earned on investments
24 held in the trust funds under this title during
25 the period in question.

1 **“SEC. 1859C. PAYMENT OF PREMIUMS.**

2 “(a) PAYMENT OF BASE MONTHLY PREMIUM.—

3 “(1) IN GENERAL.—The Secretary shall provide
4 for payment and collection of the base monthly pre-
5 mium, determined under section 1859B(a)(1) for the
6 age (and age cohort, if applicable) of the individual
7 involved and the premium area in which the individ-
8 ual principally resides, in the same manner as for
9 payment of monthly premiums under section 1840,
10 except that, for purposes of applying this section,
11 any reference in such section to the Federal Supple-
12 mentary Medical Insurance Trust Fund is deemed a
13 reference to the Trust Fund established under sec-
14 tion 1859D.

15 “(2) PERIOD OF PAYMENT.—In the case of an
16 individual who participates in the program estab-
17 lished by this title, the base monthly premium shall
18 be payable for the period commencing with the first
19 month of the individual’s coverage period and ending
20 with the month in which the individual’s coverage
21 under this title terminates.

22 “(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

24 “(1) RATE OF PAYMENT.—

25 “(A) IN GENERAL.—In the case of an indi-
26 vidual who is covered under this part for a

1 month pursuant to an enrollment under section
2 1859(b), subject to subparagraph (B), the indi-
3 vidual is liable for payment of a deferred pre-
4 mium in each month during the period de-
5 scribed in paragraph (2) in an amount equal to
6 the full deferred monthly premium rate deter-
7 mined for the individual under section
8 1859B(c).

9 “(B) SPECIAL RULES FOR THOSE WHO
10 DISENROLL EARLY.—

11 “(i) IN GENERAL.—If such an individ-
12 ual’s enrollment under such section is ter-
13 minated under clause (i) or (ii) of section
14 1859A(d)(1)(A), subject to clause (ii), the
15 amount of the deferred premium otherwise
16 established under this paragraph shall be
17 pro-rated to reflect the number of months
18 of coverage under this part under such en-
19 rollment compared to the maximum num-
20 ber of months of coverage that the individ-
21 ual would have had if the enrollment were
22 not so terminated.

23 “(ii) ROUNDING TO 12-MONTH MINI-
24 MUM COVERAGE PERIODS.—In applying
25 clause (i), the number of months of cov-

1 erage (if not a multiple of 12) shall be
2 rounded to the next highest multiple of 12
3 months, except that in no case shall this
4 clause result in a number of months of
5 coverage exceeding the maximum number
6 of months of coverage that the individual
7 would have had if the enrollment were not
8 so terminated.

9 “(2) PERIOD OF PAYMENT.—The period de-
10 scribed in this paragraph for an individual is the pe-
11 riod beginning with the first month in which the in-
12 dividual has attained 65 years of age and ending
13 with the month before the month in which the indi-
14 vidual attains 85 years of age.

15 “(3) COLLECTION.—In the case of an individual
16 who is liable for a premium under this subsection,
17 the amount of the premium shall be collected in the
18 same manner as the premium for enrollment under
19 such part is collected under section 1840, except
20 that any reference in such section to the Federal
21 Supplementary Medical Insurance Trust Fund is
22 deemed to be a reference to the Medicare Early Ac-
23 cess Trust Fund established under section 1859D.

24 “(c) APPLICATION OF CERTAIN PROVISIONS.—The
25 provisions of section 1840 (other than subsection (h))

1 shall apply to premiums collected under this section in the
 2 same manner as they apply to premiums collected under
 3 part B, except that any reference in such section to the
 4 Federal Supplementary Medical Insurance Trust Fund is
 5 deemed a reference to the Trust Fund established under
 6 section 1859D.

7 **“SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.**

8 “(a) ESTABLISHMENT OF TRUST FUND.—

9 “(1) IN GENERAL.—There is hereby created on
 10 the books of the Treasury of the United States a
 11 trust fund to be known as the ‘Medicare Early Ac-
 12 cess Trust Fund’ (in this section referred to as the
 13 ‘Trust Fund’). The Trust Fund shall consist of such
 14 gifts and bequests as may be made as provided in
 15 section 201(i)(1) and such amounts as may be de-
 16 posited in, or appropriated to, such fund as provided
 17 in this title.

18 “(2) PREMIUMS.—Premiums collected under
 19 section 1859B shall be transferred to the Trust
 20 Fund.

21 “(b) INCORPORATION OF PROVISIONS.—

22 “(1) IN GENERAL.—Subject to paragraph (2),
 23 subsections (b) through (i) of section 1841 shall
 24 apply with respect to the Trust Fund and this title
 25 in the same manner as they apply with respect to

1 the Federal Supplementary Medical Insurance Trust
 2 Fund and part B, respectively.

3 “(2) MISCELLANEOUS REFERENCES.—In apply-
 4 ing provisions of section 1841 under paragraph
 5 (1)—

6 “(A) any reference in such section to ‘this
 7 part’ is construed to refer to this part D;

8 “(B) any reference in section 1841(h) to
 9 section 1840(d) and in section 1841(i) to sec-
 10 tions 1840(b)(1) and 1842(g) are deemed ref-
 11 erences to comparable authority exercised under
 12 this part; and

13 “(C) payments may be made under section
 14 1841(g) to the trust funds under sections 1817
 15 and 1841 as reimbursement to such funds for
 16 payments they made for benefits provided
 17 under this part.

18 **“SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.**

19 “(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—
 20 The Board of Trustees of the Medicare Early Access
 21 Trust Fund under section 1859D(b)(1) shall report on an
 22 annual basis to Congress concerning the status of the
 23 Trust Fund and the need for adjustments in the program
 24 under this part to maintain financial solvency of the pro-
 25 gram under this part.

1 “(b) PERIODIC GAO REPORTS.—The Comptroller
 2 General of the United States shall periodically submit to
 3 Congress reports on the adequacy of the financing of cov-
 4 erage provided under this part. The Comptroller General
 5 shall include in such report such recommendations for ad-
 6 justments in such financing and coverage as the Comptrol-
 7 ler General deems appropriate in order to maintain finan-
 8 cial solvency of the program under this part.

9 **“SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.**

10 “(a) TREATMENT FOR PURPOSES OF THIS TITLE.—
 11 Except as otherwise provided in this part—

12 “(1) an individual enrolled under this part shall
 13 be treated for purposes of this title as though the in-
 14 dividual was entitled to benefits under part A and
 15 enrolled under part B; and

16 “(2) benefits described in section 1859 shall be
 17 payable under this title to such an individual in the
 18 same manner as if such individual was so entitled
 19 and enrolled.

20 “(b) NOT TREATED AS MEDICARE PROGRAM FOR
 21 PURPOSES OF MEDICAID PROGRAM.—For purposes of ap-
 22 plying title XIX (including the provision of medicare cost-
 23 sharing assistance under such title), an individual who is
 24 enrolled under this part shall not be treated as being enti-
 25 tled to benefits under this title.

1 “(c) NOT TREATED AS MEDICARE PROGRAM FOR
 2 PURPOSES OF COBRA CONTINUATION PROVISIONS.—In
 3 applying a COBRA continuation provision (as defined in
 4 section 2791(d)(4) of the Public Health Service Act), any
 5 reference to an entitlement to benefits under this title
 6 shall not be construed to include entitlement to benefits
 7 under this title pursuant to the operation of this part.”.

8 (b) CONFORMING AMENDMENTS TO SOCIAL SECU-
 9 RITY ACT PROVISIONS.—

10 (1) Section 201(i)(1) of the Social Security Act
 11 (42 U.S.C. 401(i)(1)) is amended by striking “or the
 12 Federal Supplementary Medical Insurance Trust
 13 Fund” and inserting “the Federal Supplementary
 14 Medical Insurance Trust Fund, and the Medicare
 15 Early Access Trust Fund”.

16 (2) Section 201(g)(1)(A) of such Act (42
 17 U.S.C. 401(g)(1)(A)) is amended by striking “and
 18 the Federal Supplementary Medical Insurance Trust
 19 Fund established by title XVIII” and inserting “,
 20 the Federal Supplementary Medical Insurance Trust
 21 Fund, and the Medicare Early Access Trust Fund
 22 established by title XVIII”.

23 (3) Section 1820(i) of such Act (42 U.S.C.
 24 1395i–4(i)) is amended by striking “part D” and in-
 25 serting “part E”.

1 (4) Part C of title XVIII of such Act is
2 amended—

3 (A) in section 1851(a)(2)(B) (42 U.S.C.
4 1395w-21(a)(2)(B)), by striking “1859(b)(3)”
5 and inserting “1858(b)(3);

6 (B) in section 1851(a)(2)(C) (42 U.S.C.
7 1395w-21(a)(2)(C)), by striking “1859(b)(2)”
8 and inserting “1858(b)(2)”;

9 (C) in section 1852(a)(1) (42 U.S.C.
10 1395w-22(a)(1)), by striking “1859(b)(3)” and
11 inserting “1858(b)(3);

12 (D) in section 1852(a)(3)(B)(ii) (42
13 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking
14 “1859(b)(2)(B)” and inserting
15 “1858(b)(2)(B)”;

16 (E) in section 1853(a)(1)(A) (42 U.S.C.
17 1395w-23(a)(1)(A)), by striking “1859(e)(4)”
18 and inserting “1858(e)(4)”;

19 (F) in section 1853(a)(3)(D) (42 U.S.C.
20 1395w-23(a)(3)(D)), by striking “1859(e)(4)”
21 and inserting “1858(e)(4)”.

22 (5) Section 1853(c) of such Act (42 U.S.C.
23 1395w-23(c)) is amended—

24 (A) in paragraph (1), by striking “or (7)”
25 and inserting “, (7), or (8)”, and

1 (B) by adding at the end the following:

2 “(8) ADJUSTMENT FOR EARLY ACCESS.—In ap-
 3 plying this subsection with respect to individuals en-
 4 titled to benefits under part D, the Secretary shall
 5 provide for an appropriate adjustment in the
 6 Medicare+Choice capitation rate as may be appro-
 7 priate to reflect differences between the population
 8 served under such part and the population under
 9 parts A and B.”.

10 (c) OTHER CONFORMING AMENDMENTS.—

11 (1) Section 138(b)(4) of the Internal Revenue
 12 Code of 1986 is amended by striking “1859(b)(3)”
 13 and inserting “1858(b)(3)”.

14 (2)(A) Section 602(2)(D)(ii) of the Employee
 15 Retirement Income Security Act of 1974 (29 U.S.C.
 16 1162(2)) is amended by inserting “(not including an
 17 individual who is so entitled pursuant to enrollment
 18 under section 1859A)” after “Social Security Act”.

19 (B) Section 2202(2)(D)(ii) of the Public Health
 20 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-
 21 ed by inserting “(not including an individual who is
 22 so entitled pursuant to enrollment under section
 23 1859A)” after “Social Security Act”.

24 (C) Section 4980B(f)(2)(B)(i)(V) of the Inter-
 25 nal Revenue Code of 1986 is amended by inserting

1 “(not including an individual who is so entitled pur-
 2 suant to enrollment under section 1859A)” after
 3 “Social Security Act”.

4 **TITLE II—ACCESS TO MEDICARE**
 5 **BENEFITS FOR DISPLACED**
 6 **WORKERS 55-TO-62 YEARS OF**
 7 **AGE**

8 **SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED**
 9 **WORKERS 55-TO-62 YEARS OF AGE.**

10 (a) ELIGIBILITY.—Section 1859 of the Social Secu-
 11 rity Act, as inserted by section 101(a)(2), is amended by
 12 adding at the end the following new subsection:

13 “(c) DISPLACED WORKERS AND SPOUSES.—

14 “(1) DISPLACED WORKERS.—Subject to para-
 15 graph (3), an individual who meets the following re-
 16 quirements with respect to a month is eligible to en-
 17 roll under this part with respect to such month:

18 “(A) AGE.—As of the last day of the
 19 month, the individual has attained 55 years of
 20 age, but has not attained 62 years of age.

21 “(B) MEDICARE ELIGIBILITY (BUT FOR
 22 AGE).—The individual would be eligible for ben-
 23 efits under part A or B for the month if the in-
 24 dividual were 65 years of age.

1 “(C) LOSS OF EMPLOYMENT-BASED COV-
2 ERAGE.—

3 “(i) ELIGIBLE FOR UNEMPLOYMENT
4 COMPENSATION.—The individual meets the
5 requirements relating to period of covered
6 employment and conditions of separation
7 from employment to be eligible for unem-
8 ployment compensation (as defined in sec-
9 tion 85(b) of the Internal Revenue Code of
10 1986), based on a separation from employ-
11 ment occurring on or after January 1,
12 1999. The previous sentence shall not be
13 construed as requiring the individual to be
14 receiving such unemployment compensa-
15 tion.

16 “(ii) LOSS OF EMPLOYMENT-BASED
17 COVERAGE.—Immediately before the time
18 of such separation of employment, the indi-
19 vidual was covered under a group health
20 plan on the basis of such employment, and,
21 because of such loss, is no longer eligible
22 for coverage under such plan (including
23 such eligibility based on the application of
24 a Federal or State COBRA continuation

provision) as of the last day of the month involved.

“(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

“(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

“(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

“(I) the individual (or spouse) elected coverage described in clause (ii); and

“(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

“(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAIL-

1 ABLE.—An individual described in this
2 clause is an individual—

3 “(I) who was offered coverage
4 under a Federal or State COBRA
5 continuation provision at the time of
6 loss of coverage eligibility described in
7 subparagraph (C)(ii); or

8 “(II) whose spouse was offered
9 such coverage in a manner that per-
10 mitted coverage of the individual at
11 such time.

12 “(iii) MONTHS OF POSSIBLE COBRA
13 CONTINUATION COVERAGE.—A month de-
14 scribed in this clause is a month for which
15 an individual described in clause (ii) could
16 have had coverage described in such clause
17 as of the last day of the month if the indi-
18 vidual (or the spouse of the individual, as
19 the case may be) had elected such coverage
20 on a timely basis.

21 “(E) NOT ELIGIBLE FOR COVERAGE
22 UNDER FEDERAL HEALTH INSURANCE PRO-
23 GRAM OR GROUP HEALTH PLANS.—The individ-
24 ual is not eligible for benefits or coverage under
25 a Federal health insurance program or under a

1 group health plan (whether on the basis of the
 2 individual's employment or employment of the
 3 individual's spouse) as of the last day of the
 4 month involved.

5 “(2) SPOUSE OF DISPLACED WORKER.—Subject
 6 to paragraph (3), an individual who meets the fol-
 7 lowing requirements with respect to a month is eligi-
 8 ble to enroll under this part with respect to such
 9 month:

10 “(A) AGE.—As of the last day of the
 11 month, the individual has not attained 62 years
 12 of age.

13 “(B) MARRIED TO DISPLACED WORKER.—
 14 The individual is the spouse of an individual at
 15 the time the individual enrolls under this part
 16 under paragraph (1) and loses coverage de-
 17 scribed in paragraph (1)(C)(ii) because the in-
 18 dividual's spouse lost such coverage.

19 “(C) MEDICARE ELIGIBILITY (BUT FOR
 20 AGE); EXHAUSTION OF ANY COBRA CONTINU-
 21 ATION COVERAGE; AND NOT ELIGIBLE FOR COV-
 22 ERAGE UNDER FEDERAL HEALTH INSURANCE
 23 PROGRAM OR GROUP HEALTH PLAN.—The indi-
 24 vidual meets the requirements of subparagraphs
 25 (B), (D), and (E) of paragraph (1).

1 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
 2 AFFECTS CONTINUED ELIGIBILITY.—For provision
 3 that terminates enrollment under this section in the
 4 case of an individual who becomes eligible for cov-
 5 erage under a group health plan or under a Federal
 6 health insurance program, see section
 7 1859A(d)(1)(C).

8 “(4) REENROLLMENT PERMITTED.—Nothing in
 9 this subsection shall be construed as preventing an
 10 individual who, after enrolling under this subsection,
 11 terminates such enrollment from subsequently re-
 12 enrolling under this subsection if the individual is el-
 13 igible to enroll under this subsection at that time.”.

14 (b) ENROLLMENT.—Section 1859A of such Act, as
 15 so inserted, is amended—

16 (1) in subsection (a), by striking “and” at the
 17 end of paragraph (1), by striking the period at the
 18 end of paragraph (2) and inserting “; and”, and by
 19 adding at the end the following new paragraph:

20 “(3) individuals whose coverage under this part
 21 would terminate because of subsection (d)(1)(B)(ii)
 22 are provided notice and an opportunity to continue
 23 enrollment in accordance with section
 24 1859E(c)(1).”;

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

“(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

“(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

“(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2000, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end 4 months later.”;

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

“(B) TERMINATION BASED ON AGE.—

1 “(i) AT AGE 65.—Subject to clause
2 (ii), the individual attains 65 years of age.

3 “(ii) AT AGE 62 FOR DISPLACED
4 WORKERS AND SPOUSES.—In the case of
5 an individual enrolled under this part pur-
6 suant to section 1859(c), subject to sub-
7 section (a)(1), the individual attains 62
8 years of age.”;

9 (4) in subsection (d)(1), by adding at the end
10 the following new subparagraph:

11 “(C) OBTAINING ACCESS TO EMPLOYMENT-
12 BASED COVERAGE OR FEDERAL HEALTH INSUR-
13 ANCE PROGRAM FOR INDIVIDUALS UNDER 62
14 YEARS OF AGE.—In the case of an individual
15 who has not attained 62 years of age, the indi-
16 vidual is covered (or eligible for coverage) as a
17 participant or beneficiary under a group health
18 plan or under a Federal health insurance pro-
19 gram.”;

20 (5) in subsection (d)(2), by amending subpara-
21 graph (C) to read as follows:

22 “(C) AGE OR MEDICARE ELIGIBILITY.—

23 “(i) IN GENERAL.—The termination
24 of a coverage period under paragraph
25 (1)(A)(iii) or (1)(B)(i) shall take effect as

of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

“(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains 62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1).”; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

“(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.”.

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

1 (1) in subsection (a)(1), by adding at the end
 2 the following:

3 “(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base
 4 monthly premium for individuals under 62
 5 years of age, equal to $\frac{1}{12}$ of the base annual
 6 premium rate computed under subsection (d)(3)
 7 for each premium area and age cohort.”; and

8 (2) by adding at the end the following new sub-
 9 section:
 10

11 “(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS
 12 UNDER 62 YEARS OF AGE.—

13 “(1) NATIONAL, PER CAPITA AVERAGE FOR AGE
 14 GROUPS.—

15 “(A) ESTIMATE OF AMOUNT.—The Sec-
 16 retary shall estimate the average, annual per
 17 capita amount that would be payable under this
 18 title with respect to individuals residing in the
 19 United States who meet the requirement of sec-
 20 tion 1859(c)(1)(A) within each of the age co-
 21 horts established under subparagraph (B) as if
 22 all such individuals within such cohort were eli-
 23 gible for (and enrolled) under this title during
 24 the entire year (and assuming that section
 25 1862(b)(2)(A)(i) did not apply).

1 “(B) AGE COHORTS.—For purposes of
2 subparagraph (A), the Secretary shall establish
3 separate age cohorts in 5-year age increments
4 for individuals who have not attained 60 years
5 of age and a separate cohort for individuals who
6 have attained 60 years of age.

7 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
8 retary shall adjust the amount determined under
9 paragraph (1)(A) for each premium area (specified
10 under subsection (a)(3)) in the same manner and to
11 the same extent as the Secretary provides for adjust-
12 ments under subsection (b)(2).

13 “(3) BASE ANNUAL PREMIUM.—The base an-
14 nual premium under this subsection for months in a
15 year for individuals in an age cohort under para-
16 graph (1)(B) in a premium area is equal to 165 per-
17 cent of the average, annual per capita amount esti-
18 mated under paragraph (1) for the age cohort and
19 year, adjusted for such area under paragraph (2).

20 “(4) PRO-RATION OF PREMIUMS TO REFLECT
21 COVERAGE DURING A PART OF A MONTH.—If the
22 Secretary provides for coverage of portions of a
23 month under section 1859A(c)(2), the Secretary
24 shall pro-rate the premiums attributable to such cov-

1 erage under this section to reflect the portion of the
 2 month so covered.”.

3 (d) ADMINISTRATIVE PROVISIONS.—Section 1859F
 4 of such Act, as so inserted, is amended by adding at the
 5 end the following:

6 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

7 “(1) PROCESS FOR CONTINUED ENROLLMENT
 8 OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF
 9 AGE.—The Secretary shall provide a process for the
 10 continuation of enrollment of individuals whose en-
 11 rollment under section 1859(c) would be terminated
 12 upon attaining 62 years of age. Under such process
 13 such individuals shall be provided appropriate and
 14 timely notice before the date of such termination
 15 and of the requirement to enroll under this part pur-
 16 suant to section 1859(b) in order to continue entitle-
 17 ment to benefits under this title after attaining 62
 18 years of age.

19 “(2) ARRANGEMENTS WITH STATES FOR DE-
 20 TERMINATIONS RELATING TO UNEMPLOYMENT COM-
 21 PENSATION ELIGIBILITY.—The Secretary may pro-
 22 vide for appropriate arrangements with States for
 23 the determination of whether individuals in the State
 24 meet or would meet the requirements of section
 25 1859(c)(1)(C)(i).”.

1 (e) CONFORMING AMENDMENT TO HEADING TO
 2 PART.—The heading of part D of title XVIII of the Social
 3 Security Act, as so inserted, is amended by striking “62”
 4 and inserting “55”.

5 **TITLE III—COBRA PROTECTION**
 6 **FOR EARLY RETIREES**
 7 **Subtitle A—Amendments to the**
 8 **Employee Retirement Income**
 9 **Security Act of 1974**

10 **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**
 11 **RETIRED WORKERS WHO LOSE RETIREE**
 12 **HEALTH COVERAGE.**

13 (a) ESTABLISHMENT OF NEW QUALIFYING
 14 EVENT.—

15 (1) IN GENERAL.—Section 603 of the Employee
 16 Retirement Income Security Act of 1974 (29 U.S.C.
 17 1163) is amended by inserting after paragraph (6)
 18 the following new paragraph:

19 “(7) The termination or substantial reduction
 20 in benefits (as defined in section 607(7)) of group
 21 health plan coverage as a result of plan changes or
 22 termination in the case of a covered employee who
 23 is a qualified retiree.”.

24 (2) QUALIFIED RETIREE; QUALIFIED BENE-
 25 FICIARY; AND SUBSTANTIAL REDUCTION DE-

1 FINED.—Section 607 of such Act (29 U.S.C. 1167)
 2 is amended—

3 (A) in paragraph (3)—

4 (i) in subparagraph (A), by inserting
 5 “except as otherwise provided in this para-
 6 graph,” after “means,”; and

7 (ii) by adding at the end the following
 8 new subparagraph:

9 “(D) SPECIAL RULE FOR QUALIFYING RE-
 10 TIREES AND DEPENDENTS.—In the case of a
 11 qualifying event described in section 603(7), the
 12 term ‘qualified beneficiary’ means a qualified
 13 retiree and any other individual who, on the day
 14 before such qualifying event, is a beneficiary
 15 under the plan on the basis of the individual’s
 16 relationship to such qualified retiree.”; and

17 (B) by adding at the end the following new
 18 paragraphs:

19 “(6) QUALIFIED RETIREE.—The term ‘qualified
 20 retiree’ means, with respect to a qualifying event de-
 21 scribed in section 603(7), a covered employee who,
 22 at the time of the event—

23 “(A) has attained 55 years of age; and

1 “(B) was receiving group health coverage
2 under the plan by reason of the retirement of
3 the covered employee.

4 “(7) SUBSTANTIAL REDUCTION.—The term
5 ‘substantial reduction’—

6 “(A) means, as determined under regula-
7 tions of the Secretary and with respect to a
8 qualified beneficiary, a reduction in the average
9 actuarial value of benefits under the plan
10 (through reduction or elimination of benefits,
11 an increase in premiums, deductibles, copay-
12 ments, and coinsurance, or any combination
13 thereof), since the date of commencement of
14 coverage of the beneficiary by reason of the re-
15 tirement of the covered employee (or, if later,
16 January 6, 1999), in an amount equal to at
17 least 50 percent of the total average actuarial
18 value of the benefits under the plan as of such
19 date (taking into account an appropriate ad-
20 justment to permit comparison of values over
21 time); and

22 “(B) includes an increase in premiums re-
23 quired to an amount that exceeds the premium
24 level described in the fourth sentence of section
25 602(3).”.

1 (b) DURATION OF COVERAGE THROUGH AGE 65.—
 2 Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is
 3 amended—

4 (1) in clause (ii), by inserting “or 603(7)” after
 5 “603(6)”;

6 (2) in clause (iv), by striking “or 603(6)” and
 7 inserting “, 603(6), or 603(7)”;

8 (3) by redesignating clause (iv) as clause (vi);

9 (4) by redesignating clause (v) as clause (iv)
 10 and by moving such clause to immediately follow
 11 clause (iii); and

12 (5) by inserting after such clause (iv) the fol-
 13 lowing new clause:

14 “(v) SPECIAL RULE FOR CERTAIN DE-
 15 PENDENTS IN CASE OF TERMINATION OR
 16 SUBSTANTIAL REDUCTION OF RETIREE
 17 HEALTH COVERAGE.—In the case of a
 18 qualifying event described in section
 19 603(7), in the case of a qualified bene-
 20 ficiary described in section 607(3)(D) who
 21 is not the qualified retiree or spouse of
 22 such retiree, the later of—

23 “(I) the date that is 36 months
 24 after the earlier of the date the quali-
 25 fied retiree becomes entitled to bene-

1 fits under title XVIII of the Social Se-
 2 curity Act, or the date of the death of
 3 the qualified retiree; or

4 “(II) the date that is 36 months
 5 after the date of the qualifying
 6 event.”.

7 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
 8 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
 9 ERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1))
 10 is amended—

11 (1) by striking “The coverage” and inserting
 12 the following:

13 “(A) IN GENERAL.—Except as provided in
 14 subparagraph (B), the coverage”; and

15 (2) by adding at the end the following:

16 “(B) CERTAIN RETIREES.—In the case of
 17 a qualifying event described in section 603(7),
 18 in applying the first sentence of subparagraph
 19 (A) and the fourth sentence of paragraph (3),
 20 the coverage offered that is the most prevalent
 21 coverage option (as determined under regula-
 22 tions of the Secretary) continued under the
 23 group health plan (or, if none, under the most
 24 prevalent other plan offered by the same plan
 25 sponsor) shall be treated as the coverage de-

1 scribed in such sentence, or (at the option of
 2 the plan and qualified beneficiary) such other
 3 coverage option as may be offered and elected
 4 by the qualified beneficiary involved.”.

5 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
 6 Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-
 7 ed by adding at the end the following new sentence: “In
 8 the case of an individual provided continuation coverage
 9 by reason of a qualifying event described in section
 10 603(7), any reference in subparagraph (A) of this para-
 11 graph to ‘102 percent of the applicable premium’ is
 12 deemed a reference to ‘125 percent of the applicable pre-
 13 mium for employed individuals (and their dependents, if
 14 applicable) for the coverage option referred to in para-
 15 graph (1)(B)’.”.

16 (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.
 17 1166) is amended—

18 (1) in paragraph (4)(A), by striking “or (6)”
 19 and inserting “(6), or (7)”; and

20 (2) by adding at the end the following:
 21 “The notice under paragraph (4) in the case of a qualify-
 22 ing event described in section 603(7) shall be provided at
 23 least 90 days before the date of the qualifying event.”.

24 (f) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
 2 this section (other than subsection (e)(2)) shall
 3 apply to qualifying events occurring on or after Jan-
 4 uary 6, 1999. In the case of a qualifying event oc-
 5 curring on or after such date and before the date of
 6 the enactment of this Act, such event shall be
 7 deemed (for purposes of such amendments) to have
 8 occurred on the date of the enactment of this Act.

9 (2) ADVANCE NOTICE OF TERMINATIONS AND
 10 REDUCTIONS.—The amendment made by subsection
 11 (e)(2) shall apply to qualifying events occurring
 12 after the date of the enactment of this Act, except
 13 that in no case shall notice be required under such
 14 amendment before such date.

15 **Subtitle B—Amendments to the** 16 **Public Health Service Act**

17 **SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN** 18 **RETIRED WORKERS WHO LOSE RETIREE** 19 **HEALTH COVERAGE.**

20 (a) ESTABLISHMENT OF NEW QUALIFYING
 21 EVENT.—

22 (1) IN GENERAL.—Section 2203 of the Public
 23 Health Service Act (42 U.S.C. 300bb–3) is amended
 24 by inserting after paragraph (5) the following new
 25 paragraph:

1 “(6) The termination or substantial reduction
 2 in benefits (as defined in section 2208(6)) of group
 3 health plan coverage as a result of plan changes or
 4 termination in the case of a covered employee who
 5 is a qualified retiree.”.

6 (2) QUALIFIED RETIREE; QUALIFIED BENE-
 7 FICIARY; AND SUBSTANTIAL REDUCTION DE-
 8 FINED.—Section 2208 of such Act (42 U.S.C.
 9 300bb–8) is amended—

10 (A) in paragraph (3)—

11 (i) in subparagraph (A), by inserting
 12 “except as otherwise provided in this para-
 13 graph,” after “means,”; and

14 (ii) by adding at the end the following
 15 new subparagraph:

16 “(C) SPECIAL RULE FOR QUALIFYING RE-
 17 TIREES AND DEPENDENTS.—In the case of a
 18 qualifying event described in section 2203(6),
 19 the term ‘qualified beneficiary’ means a quali-
 20 fied retiree and any other individual who, on
 21 the day before such qualifying event, is a bene-
 22 ficiary under the plan on the basis of the indi-
 23 vidual’s relationship to such qualified retiree.”;
 24 and

1 (B) by adding at the end the following new
 2 paragraphs:

3 “(5) QUALIFIED RETIREE.—The term ‘qualified
 4 retiree’ means, with respect to a qualifying event de-
 5 scribed in section 2203(6), a covered employee who,
 6 at the time of the event—

7 “(A) has attained 55 years of age; and

8 “(B) was receiving group health coverage
 9 under the plan by reason of the retirement of
 10 the covered employee.

11 “(6) SUBSTANTIAL REDUCTION.—The term
 12 ‘substantial reduction’—

13 “(A) means, as determined under regula-
 14 tions of the Secretary of Labor and with respect
 15 to a qualified beneficiary, a reduction in the av-
 16 erage actuarial value of benefits under the plan
 17 (through reduction or elimination of benefits,
 18 an increase in premiums, deductibles, copay-
 19 ments, and coinsurance, or any combination
 20 thereof), since the date of commencement of
 21 coverage of the beneficiary by reason of the re-
 22 tirement of the covered employee (or, if later,
 23 January 6, 1999), in an amount equal to at
 24 least 50 percent of the total average actuarial
 25 value of the benefits under the plan as of such

1 date (taking into account an appropriate ad-
 2 justment to permit comparison of values over
 3 time); and

4 “(B) includes an increase in premiums re-
 5 quired to an amount that exceeds the premium
 6 level described in the fourth sentence of section
 7 2202(3).”.

8 (b) DURATION OF COVERAGE THROUGH AGE 65.—
 9 Section 2202(2)(A) of such Act (42 U.S.C. 300bb-
 10 2(2)(A)) is amended—

11 (1) by redesignating clause (iii) as clause (iv);
 12 and

13 (2) by inserting after clause (ii) the following
 14 new clause:

15 “(iii) SPECIAL RULE FOR CERTAIN
 16 DEPENDENTS IN CASE OF TERMINATION
 17 OR SUBSTANTIAL REDUCTION OF RETIREE
 18 HEALTH COVERAGE.—In the case of a
 19 qualifying event described in section
 20 2203(6), in the case of a qualified bene-
 21 ficiary described in section 2208(3)(C) who
 22 is not the qualified retiree or spouse of
 23 such retiree, the later of—

24 “(I) the date that is 36 months
 25 after the earlier of the date the quali-

1 fied retiree becomes entitled to bene-
 2 fits under title XVIII of the Social
 3 Security Act, or the date of the death
 4 of the qualified retiree; or

5 “(II) the date that is 36 months
 6 after the date of the qualifying
 7 event.”.

8 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
 9 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
 10 ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-
 11 2(1)) is amended—

12 (1) by striking “The coverage” and inserting
 13 the following:

14 “(A) IN GENERAL.—Except as provided in
 15 subparagraph (B), the coverage”; and

16 (2) by adding at the end the following:

17 “(B) CERTAIN RETIREES.—In the case of
 18 a qualifying event described in section 2203(6),
 19 in applying the first sentence of subparagraph
 20 (A) and the fourth sentence of paragraph (3),
 21 the coverage offered that is the most prevalent
 22 coverage option (as determined under regula-
 23 tions of the Secretary of Labor) continued
 24 under the group health plan (or, if none, under
 25 the most prevalent other plan offered by the

1 same plan sponsor) shall be treated as the cov-
 2 erage described in such sentence, or (at the op-
 3 tion of the plan and qualified beneficiary) such
 4 other coverage option as may be offered and
 5 elected by the qualified beneficiary involved.”.

6 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
 7 Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is
 8 amended by adding at the end the following new sentence:
 9 “In the case of an individual provided continuation cov-
 10 erage by reason of a qualifying event described in section
 11 2203(6), any reference in subparagraph (A) of this para-
 12 graph to ‘102 percent of the applicable premium’ is
 13 deemed a reference to ‘125 percent of the applicable pre-
 14 mium for employed individuals (and their dependents, if
 15 applicable) for the coverage option referred to in para-
 16 graph (1)(B)’.”.

17 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.
 18 300bb–6(a)) is amended—

19 (1) in paragraph (4)(A), by striking “or (4)”
 20 and inserting “(4), or (6)”; and

21 (2) by adding at the end the following:
 22 “The notice under paragraph (4) in the case of a qualify-
 23 ing event described in section 2203(6) shall be provided
 24 at least 90 days before the date of the qualifying event.”.

25 (f) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
 2 this section (other than subsection (e)(2)) shall
 3 apply to qualifying events occurring on or after Jan-
 4 uary 6, 1999. In the case of a qualifying event oc-
 5 curring on or after such date and before the date of
 6 the enactment of this Act, such event shall be
 7 deemed (for purposes of such amendments) to have
 8 occurred on the date of the enactment of this Act.

9 (2) ADVANCE NOTICE OF TERMINATIONS AND
 10 REDUCTIONS.—The amendment made by subsection
 11 (e)(2) shall apply to qualifying events occurring
 12 after the date of the enactment of this Act, except
 13 that in no case shall notice be required under such
 14 amendment before such date.

15 **Subtitle C—Amendments to the** 16 **Internal Revenue Code of 1986**

17 **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN** 18 **RETIRED WORKERS WHO LOSE RETIREE** 19 **HEALTH COVERAGE.**

20 (a) ESTABLISHMENT OF NEW QUALIFYING
 21 EVENT.—

22 (1) IN GENERAL.—Section 4980B(f)(3) of the
 23 Internal Revenue Code of 1986 is amended by in-
 24 serting after subparagraph (F) the following new
 25 subparagraph:

1 “(G) The termination or substantial reduc-
 2 tion in benefits (as defined in subsection (g)(6))
 3 of group health plan coverage as a result of
 4 plan changes or termination in the case of a
 5 covered employee who is a qualified retiree.”.

6 (2) QUALIFIED RETIREE; QUALIFIED BENE-
 7 FICIARY; AND SUBSTANTIAL REDUCTION DE-
 8 FINED.—Section 4980B(g) of such Code is
 9 amended—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A), by inserting
 12 “except as otherwise provided in this para-
 13 graph,” after “means,”; and

14 (ii) by adding at the end the following
 15 new subparagraph:

16 “(E) SPECIAL RULE FOR QUALIFYING RE-
 17 TIREES AND DEPENDENTS.—In the case of a
 18 qualifying event described in subsection
 19 (f)(3)(G), the term ‘qualified beneficiary’ means
 20 a qualified retiree and any other individual who,
 21 on the day before such qualifying event, is a
 22 beneficiary under the plan on the basis of the
 23 individual’s relationship to such qualified re-
 24 tiree.”; and

1 (B) by adding at the end the following new
2 paragraphs:

3 “(5) QUALIFIED RETIREE.—The term ‘qualified
4 retiree’ means, with respect to a qualifying event de-
5 scribed in subsection (f)(3)(G), a covered employee
6 who, at the time of the event—

7 “(A) has attained 55 years of age; and

8 “(B) was receiving group health coverage
9 under the plan by reason of the retirement of
10 the covered employee.

11 “(6) SUBSTANTIAL REDUCTION.—The term
12 ‘substantial reduction’—

13 “(A) means, as determined under regula-
14 tions of the Secretary of Labor and with respect
15 to a qualified beneficiary, a reduction in the av-
16 erage actuarial value of benefits under the plan
17 (through reduction or elimination of benefits,
18 an increase in premiums, deductibles, copay-
19 ments, and coinsurance, or any combination
20 thereof), since the date of commencement of
21 coverage of the beneficiary by reason of the re-
22 tirement of the covered employee (or, if later,
23 January 6, 1999), in an amount equal to at
24 least 50 percent of the total average actuarial
25 value of the benefits under the plan as of such

1 date (taking into account an appropriate ad-
 2 justment to permit comparison of values over
 3 time); and

4 “(B) includes an increase in premiums re-
 5 quired to an amount that exceeds the premium
 6 level described in the fourth sentence of sub-
 7 section (f)(2)(C).”.

8 (b) DURATION OF COVERAGE THROUGH AGE 65.—
 9 Section 4980B(f)(2)(B)(i) of such Code is amended—

10 (1) in subclause (II), by inserting “or (3)(G)”
 11 after “(3)(F)”;

12 (2) in subclause (IV), by striking “or (3)(F)”
 13 and inserting “, (3)(F), or (3)(G)”;

14 (3) by redesignating subclause (IV) as sub-
 15 clause (VI);

16 (4) by redesignating subclause (V) as subclause
 17 (IV) and by moving such clause to immediately fol-
 18 low subclause (III); and

19 (5) by inserting after such subclause (IV) the
 20 following new subclause:

21 “(V) SPECIAL RULE FOR CER-
 22 TAIN DEPENDENTS IN CASE OF TER-
 23 MINATION OR SUBSTANTIAL REDUC-
 24 TION OF RETIREE HEALTH COV-
 25 ERAGE.—In the case of a qualifying

1 event described in paragraph (3)(G),
 2 in the case of a qualified beneficiary
 3 described in subsection (g)(1)(E) who
 4 is not the qualified retiree or spouse
 5 of such retiree, the later of—

6 “(a) the date that is 36
 7 months after the earlier of the
 8 date the qualified retiree becomes
 9 entitled to benefits under title
 10 XVIII of the Social Security Act,
 11 or the date of the death of the
 12 qualified retiree; or

13 “(b) the date that is 36
 14 months after the date of the
 15 qualifying event.”.

16 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
 17 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
 18 ERAGE.—Section 4980B(f)(2)(A) of such Code is
 19 amended—

20 (1) by striking “The coverage” and inserting
 21 the following:

22 “(i) IN GENERAL.—Except as pro-
 23 vided in clause (ii), the coverage”; and

24 (2) by adding at the end the following:

1 “(ii) CERTAIN RETIREES.—In the
 2 case of a qualifying event described in
 3 paragraph (3)(G), in applying the first
 4 sentence of clause (i) and the fourth sen-
 5 tence of subparagraph (C), the coverage
 6 offered that is the most prevalent coverage
 7 option (as determined under regulations of
 8 the Secretary of Labor) continued under
 9 the group health plan (or, if none, under
 10 the most prevalent other plan offered by
 11 the same plan sponsor) shall be treated as
 12 the coverage described in such sentence, or
 13 (at the option of the plan and qualified
 14 beneficiary) such other coverage option as
 15 may be offered and elected by the qualified
 16 beneficiary involved.”.

17 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
 18 Section 4980B(f)(2)(C) of such Code is amended by add-
 19 ing at the end the following new sentence: “In the case
 20 of an individual provided continuation coverage by reason
 21 of a qualifying event described in paragraph (3)(G), any
 22 reference in clause (i) of this subparagraph to ‘102 per-
 23 cent of the applicable premium’ is deemed a reference to
 24 ‘125 percent of the applicable premium for employed indi-

viduals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)’.”.

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking “or (F)” and inserting “(F), or (G)”; and

(2) by adding at the end the following:

“The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.”.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except

- 1 that in no case shall notice be required under such
- 2 amendment before such date.

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